

Department of Energy

§ 710.25

(8) That the individual's failure to file a timely written request for a hearing before a Hearing Officer in accordance with paragraph (b)(4) of this section, unless time deadlines are extended for good cause, will be considered as a relinquishment by the individual of the right to a hearing provided in this subpart, and that in such event a final decision will be made by the Manager; and

(9) That in any proceedings under this subpart DOE Counsel will be participating on behalf of and representing the Department of Energy, and that any statements made by the individual to DOE Counsel may be used in subsequent proceedings.

§ 710.22 Additional information.

The notification letter referenced in § 710.21 shall also:

(a) Describe the individual's access authorization status until further notice;

(b) Advise the individual of the right to counsel at the individual's own expense at each and every stage of the proceeding;

(c) Provide the name and telephone number of the designated DOE official to contact for any further information desired, including an explanation of the individual's rights under the Privacy Act of 1974; and

(d) Include a copy of 10 CFR Part 710, Subpart A.

§ 710.23 Extensions of time by the Operations Office Manager.

The Manager may, for good cause shown, at the written request of the individual, extend the time for filing a written request for a hearing, and/or the time for filing a written answer to the matters contained in the notification letter. The Manager shall notify the Director, Office of Safeguards and Security, when such extensions have been approved.

§ 710.24 Appointment of DOE Counsel.

(a) Upon receipt from the individual of a written request for a hearing, an attorney shall forthwith be assigned by the Manager to act as DOE Counsel.

(b) DOE Counsel is authorized to consult directly with the individual if he is not represented by counsel, or with the

individual's counsel or representative if so represented, to clarify issues and reach stipulations with respect to testimony and contents of documents and other physical evidence. Such stipulations shall be binding upon the individual and the DOE Counsel for the purposes of this subpart.

§ 710.25 Appointment of Hearing Officer; prehearing conference; commencement of hearings.

(a) Upon receipt of a request for a hearing, the Manager shall in a timely manner transmit that request to the Office of Hearings and Appeals, and identify the DOE Counsel. The Manager shall at the same time transmit a copy of the notification letter and the individual's response to the Office of Hearings and Appeals.

(b) Upon receipt of the hearing request from the Manager, the Director, Office of Hearings and Appeals, shall appoint, as soon as practicable, a Hearing Officer.

(c) Immediately upon appointment of the Hearing Officer, the Office of Hearings and Appeals shall notify the individual and DOE Counsel of the Hearing Officer's identity and the address to which all further correspondence should be sent.

(d) The Hearing Officer shall have all powers necessary to regulate the conduct of proceedings under this subpart, including, but not limited to, establishing a list of persons to receive service of papers, issuing subpoenas for witnesses to attend the hearing or for the production of specific documents or other physical evidence, administering oaths and affirmations, ruling upon motions, receiving evidence, regulating the course of the hearing, disposing of procedural requests or similar matters, and taking other actions consistent with the regulations in this subpart. Requests for subpoenas shall be liberally granted except where the Hearing Officer finds that the grant of subpoenas would clearly result in evidence or testimony that is repetitious, incompetent, irrelevant, or immaterial to the issues in the case. The Hearing Officer may take sworn testimony, sequester witnesses, and control the dissemination or reproduction of any record or testimony taken pursuant to